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1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA
3 FRESNO DIVISION

4

5 In re) Case No. 24-11015-B-11
6 PINNACLE FOODS OF CALIFORNIA LLC,) Docket Control Nos. MJB-16
7 Debtor.) and KCO-6
8 _____)
9 In re) Case No. 24-11016-B-11
10 TYCO GROUP, LLC,) Docket Control No. MJB-13
11 Debtor.)
12 _____)
13 In re) Case No. 24-11017-B-11
14 CALIFORNIA QSR MANAGEMENT, INC.,) Docket Control No. MJB-12
15 Debtor.) Date: March 25, 2025
16 _____) Time: 9:30 a.m.
Place: 2500 Tulare St.
Dept. B, Fifth Floor
Courtroom 13

17

18 **MEMORANDUM RULING ON MOTION FOR COMPENSATION FOR**
LAW OFFICES OF MICHAEL JAY BERGER AND FOX ROTHSCHILD LLP

19

20

21 Michael J. Berger, Law Offices of Michael J. Berger, for Pinnacle
Foods of California, LLC, Tyco Group, LLC, CA QSR Management,
Inc., Debtors; Craig R. Tractenberg Fox Rothschild LLP, Pinnacle
Foods of California, LLC.

22

23

24 Glenn D. Moses, Venable LLP, for Popeyes Louisiana Kitchen, Inc.,
Hagop T. Bedoyan, Garrett R. Leatham, Garrett J. Wade, McCormick,
Barstow Sheppard, Wayte & Carruth, for Popeyes Louisiana Kitchen.

25

26 Walter R. Dahl, Subchapter V Trustee.

27

28 RENÉ LASTRETO II, Bankruptcy Judge:

INTRODUCTION

This matter comes before the court on four fee applications filed in three closely-related cases filed under Chapter 11 Subchapter V as described below (collectively "the Popeyes Cases" and "the Popeyes Applications"). One application was brought by Fox Rothschild LLP ("Fox Rothschild"), special counsel in only one of the cases, but it represented work which was performed on behalf of all three debtors. The other three fee applications were brought separately by Michael Jay Berger ("Berger"), general bankruptcy counsel with an application filed in each case.

I.**BACKGROUND**

The three Popeyes Cases include:

1. *In Re: Pinnacle Foods of California LLC* ("Pinnacle"), 24-11015 ("the Pinnacle Case");

2. *In Re: Tyco Group LLC* ("Tyco"), 24-11016 ("the Tyco Case"); and

3. *In Re: California QSR Management, Inc.* ("QSR"), 24-11017 ("the QSR Case").

Collectively, the three debtors will be referred to as "the Three Debtors." The four Popeyes Applications include the following:

1. Motion for Compensation by the Law Office of Fox Rothschild LLP ("the Fox Rothschild Application"). Pinnacle Case Doc. #429. Pinnacle DCN KCO-6.

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1 2. Motion for Compensation for Michael Jay Berger ("the
2 Berger/Pinnacle Application"). Pinnacle Case Doc. #453. Pinnacle
3 DCN MJB-16.

4 3. Motion for Compensation for Michael Jay Berger ("the
5 Berger/Tyco Application"). Tyco Case Doc. #327. Tyco DCN MJB-13.

6 4. Motion for Compensation for Michael Jay Berger ("the
7 Berger/QSR Application"). QSR Case Doc. #294. QSR DCN MJB-12.

8 Collectively, the latter three Applications involving
9 Michael Jay Berger ("Berger") will be referred to as "the Berger
10 Applications."

11 All four motions were set for hearing on 28 days' notice as
12 required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed.
13 R. Bankr. P. ("Rule") 2002(a)(6).

14 On March 11, 2025, Popeyes Louisiana Kitchen, Inc. ("PLK"),
15 Pinnacle's franchisor, filed an Opposition to the Fox Rothschild
16 Application, asking the court to disallow \$150,783.50 of the fees
17 requested by Fox Rothschild for the reasons discussed more fully
18 below.

19 On March 11, 2025, Walter R. Dahl, ("Dahl" or "Trustee"),
20 the Subchapter V Trustee in these cases, filed an Opposition to
21 the Berger/Pinnacle Application, with his arguments incorporated
22 by reference into truncated Oppositions filed regarding the
23 Berger/Tyco and Berger/QSR Applications. Pinnacle Doc. #462; Tyco
24 Doc. #335; QSR Doc. #304. (Collectively, "the Dahl Oppositions").

25 The three Dahl Oppositions to the Berger Applications
26 request denial of those Applications and possibly disgorgement of
27 fees paid previously to Berger. Pinnacle Doc. #462. In the
28 Opposition to the Berger/Pinnacle Application, Dahl raises

1 several issues to be discussed more fully below, but most of his
2 objections are grounded in substantially the same reasons as were
3 given by PLK in its opposition to the Fox Rothschild Application.

4 *Id.*

5 Specifically, both PLK and Dahl argue that a substantial
6 portion of the fees incurred by Fox Rothschild and by Berger were
7 neither necessary nor beneficial to the estate because they were
8 spent on a failed and quixotic effort to assume certain Franchise
9 Agreements between Pinnacle/Tyco and PLK. Pinnacle Docs. #462,
10 #463. Those efforts hinged entirely on the court's willingness to
11 overlook 25-year-old binding Ninth Circuit precedent, something
12 the court declined to do. See *Pinnacle Doc. #275 (Memorandum*
13 *Opinion dated October 10, 2024) ("the Assumption Memorandum")*.

14 The relevant facts are more fully explicated in the
15 Assumption Memorandum. But to briefly summarize, Pinnacle is a
16 franchisee of PLK which owns and operates a network of six
17 Popeyes fast food restaurants, five in Fresno, California and one
18 in Turlock, California under the auspices of the Franchise
19 Agreements. *Id.* Imran Damani ("Damani") is the owner of the Three
20 Debtors. Pinnacle and Tyco are the actual franchisees, while QSR
21 is a separate corporation used by Damani to manage the other two.
22 *Id.* The parties agree that the reorganization of the Three
23 Debtors is utterly dependent on Pinnacle being able to assume the
24 Franchise Agreements and to continue operating as a Popeyes
25 franchisee. *Id.* While Tyco was previously a Popeyes franchisee,
26 it appears to be shut down, with only Pinnacle proposed to
27 continue as an ongoing concern. *Id.*

28 ///

1 Pinnacle moved to assume the Franchise Agreements pursuant
2 to 11 U.S.C. § 365 but was opposed by PLK. Pinnacle Docs. #226,
3 #245, #260. The basis of PLK's opposition was that pursuant to 11
4 U.S.C. § 365(c)(1), PLK was excused from accepting performance or
5 rendering performance pursuant to the Franchise Agreements under
6 the "hypothetical test" which was adopted by the Ninth Circuit in
7 *Catapult Entertainment, Inc. v. Perlman (In Re Catapult Enter.)*,
8 165 F.3d 747 (9th Cir., 1999). *Id.* The court will not rehash its
9 lengthy analysis of the hypothetical test and its counterpart,
10 the "actual test," which the court discussed at length in the
11 Assumption Memorandum. *Id.* Suffice to say, the court concluded
12 that *Catapult* was binding law and that, notwithstanding the other
13 provisions of § 365, Pinnacle could not, under the present
14 circumstances, assume the Franchise Agreements without PLK's
15 consent which was emphatically not given. *Id.* The court later
16 reiterated its position in its order denying Pinnacle's Motion
17 for Reconsideration. Pinnacle Doc. #353. Undaunted, Pinnacle
18 appealed to the District Court, and that appeal is ongoing. See
19 *In re Pinnacle Foods of California, LLC*, 1:25-CV-00132-JLT
20 (E.D.Ca.).

21 With the stage thus set, the court now turns to the
22 individual Applications, and the Oppositions to each of them.
23

24 **II.**

25 **DISCUSSION**

26 **A. GENERAL PRINCIPLES.**

27 11 U.S.C. § 330(a)(1)-(4) states in relevant part:

28 ///

1 (1) After notice to the parties in interest and the United
2 States Trustee and a hearing, ... the court may award ...

3 (A) **reasonable compensation for actual, necessary**
4 **services rendered** by the trustee, examiner, ombudsman,
5 professional person, or attorney and by any
6 paraprofessional person employed by any such person;
7 and

8 ...

9 (2) **The court may, on its own motion or on the motion of the**
10 **United States Trustee, the United States Trustee for the**
11 **District or Region, the trustee for the estate, or any other**
12 **party in interest, award compensation that is less than the**
13 **amount of compensation that is requested.**

14 (3) **In determining the amount of reasonable compensation to**
15 **be awarded to an examiner, trustee under chapter 11, or**
16 **professional person, the court shall consider the nature,**
17 **the extent, and the value of such services, taking into**
18 **account all relevant factors, including—**

19 ...

20 (C) **whether the services were necessary to the**
21 **administration of, or beneficial at the time at which**
22 **the service was rendered toward the completion of, a**
23 **case under this title;**

24 ...

25 (4)

26 (A) Except as provided in subparagraph (B), the court
27 shall **not** allow compensation for—

28 ...

(ii) services that were not—

(I) reasonably likely to benefit the debtor's estate; or

(II) necessary to the administration of the case.

¹¹ U.S.C.S. § 330(a)(1)-(4) (emphasis added).

7 Compensable professional work does not equate to whether
8 work was necessary and reasonable. *Unsecured Creditors Committee*
9 *v. Puget Sound Plywood*, 924 F. 2d 955, 958 (9th Cir. 1991). A
10 professional must exercise billing judgment. *Id.* at 959. That
11 means balancing the effort against the result that might be
12 achieved. *Id.* at 961.

Relatedly, 11 U.S.C. § 331 authorizes an interim award after notice and hearing subject to subsequent final approval by the court pursuant to § 330.

16 Thus, in summation, the court must review each fee
17 application to determine, *inter alia*, whether the services for
18 which the attorney billed were truly necessary services that were
19 beneficial to the estate, and the court is authorized to reduce
20 any fees awarded below what was requested to account for any time
21 billed on work that was, in the court's opinion, neither
22 necessary nor beneficial to the estate.

23 The court acknowledges that assumption of the leases was
24 vitally important to a successful reorganization of the Three
25 Debtors. And the Debtors' ability to assume those leases was, in
26 turn, dependent on either the consent of PLK or the Debtors
27 ability to compel PLK's consent through § 365. It was reasonable
28 for Pinnacle and Tyco to pursue their Motions to Assume the

1 Franchise Agreements. In these cases, Pinnacle was the "trial
2 balloon" for this crucial issue.

3 What was not so clearly reasonable and certainly not
4 beneficial to the three estates was continuing to pursue a course
5 the court had already rejected in light of controlling and well-
6 established Ninth Circuit precedent. Accordingly, the court is
7 inclined to deny the Applications to the extent that the
8 attorneys involved have billed for work performed on matters
9 relating to the *Motions to Assume* that came after the court
10 issued the Assumption Memorandum on October 10, 2024,
11 specifically, the Motions to Reconsider and any work performed by
12 these attorneys in preparation for the appeal to the District
13 Court. The court notes that Pinnacle is represented by entirely
14 different counsel on appeal who are not being paid by the estate.

15 Likewise, the court is inclined to deny some of the
16 Applications to the extent that they request fees for time spent
17 preparing the *Second Amended Small Business Plans* dated March 7,
18 2025 ("the March 7 Plans") and filed in the Pinnacle and QSR
19 Cases. Pinnacle Doc. #460; QSR Doc. #302. The court was very
20 clear at the hearing conducted on February 4, 2025 ("the February
21 4 Hearing"), that any new plan must do something to change the
22 trajectory of the cases. Despite that, the two March 7 Plans are
23 clearly just placeholder plans which still propose
24 reorganizations for Pinnacle and QSR that are utterly dependent
25 on a reversal of the court's ruling on assumption of the
Franchise Agreements. The Tyco franchise location was closed at
that time.

28 ///

1 The Fox Rothschild Application only covers work performed
2 during the period from **July 7, 2024, through December 31, 2024,**
3 and so no fees incurred for work on the March 7 Plans after the
4 court's comments during the February 4 Hearing are before the
5 court. The Berger Applications, however, cover the period from
6 **September 6, 2024, through February 24, 2025,** and so work
7 performed by Berger on the March 7 Plans may be excludable.

8 The court further notes that the Trustee has raised
9 additional objections which the Trustee argues to be grounds for
10 denying the Berger Applications *in toto* and perhaps even
11 requiring him to disgorge attorney's fees already obtained from
12 his First Application(s). The court will address those objections
13 in its discussion of the Berger Applications, below.

14 With those principles in mind, the court will consider each
15 of the Applications. Any entries which, in the court's view, are
16 not beneficial to the estate because (1) they represent billing
17 (a) for the Motion for Reconsideration or for the Appeal and (b)
18 were incurred after October 10, 2024, or (2) they represent
19 billing for the March 7 Plan that was incurred after the February
20 4 Hearing will be excluded ("Excluded Entries").
21

22 **B. THE FOX ROTHSCHILD FEE APPLICATION.**

23 Fox Rothschild requests interim compensation in the sum of
24 **\$209,201.92** under 11 U.S.C. § 330 and § 331 for work performed on
25 behalf of Pinnacle. Pinnacle Doc. #429. This amount consists of
26 **\$204,089.00** in fees and **\$5,112.92** in expense reimbursement for
27 the period from **July 7, 2024, through December 31, 2024.** *Id.* This
28 is Applicant's first fee application.

1 Imran Damani ("Damani"), the principal for the Three
2 Debtors, executed a Declaration dated February 3, 2025,
3 indicating that he has reviewed the fee application and approves
4 the same. Pinnacle Doc. #432.

5 On March 11, 2025, Popeyes Louisiana Kitchen, Inc. ("PLK"),
6 Pinnacle's franchisor, filed an Opposition, asking the court to
7 disallow \$150,783.50 of the requested fees for the reasons
8 discussed more fully below.

9 Fox Rothschild was retained effective as of July 7, 2024, by
10 an order of this court dated September 1, 2024 ("the Retention
11 Order"). Pinnacle Doc. #244. The Retention Order stated:

12 a. No compensation is permitted except upon Court order
13 following application with notice and a hearing pursuant to 11
14 U.S.C. § 330(a); and

15 b. Compensation will be at the "lodestar rate" applicable
16 at the time that services are rendered in accordance with the
17 Ninth Circuit decision *In re Manoa Fin. Co.*, 853 F.2d. 687 (9th
18 Cir. 1988). No hourly rate referred to in the Application is
19 approved unless unambiguously so stated in this order or in a
20 subsequent order of this Court.

21 *Id.* The Retention Order also stated:

22 Applicant shall be entitled to draw on the Retainer to
23 pay Applicant's legal fees and expenses approved by the
24 Court pursuant to 11 U.S.C. §§ 330 and 331. Applicant
may not draw on the Retainer in the absence of an order
of this Court allowing Applicant's fees and expenses.

25 *Id.*

26 The Retainer alluded to in the prior quoted paragraph refers
27 to \$20,000.00 held in trust by Fox Rothschild and consisting of
28 \$15,000.00 paid to Fox Rothschild by Damani post-petition, plus

1 another \$5,000.00 paid to Fox Rothschild by Damani's father,
2 Badruddin Damani. Pinnacle Docs. #429, #433. Fox Rothschild has
3 previously declared (in the Exhibits accompanying the Application
4 for Authorization of Employment) that the elder Damani has
5 guaranteed all the firm's fees and expenses. Pinnacle Doc. #213.

6 Fox Rothschild 's firm provided **232.70** billable hours at the
7 following rates, totaling **\$204,089.00** in fees:

ATTORNEY	HOURLY RATE	APPLICATION HOURS	TOTAL FEES
Craig R. Tractenberg - Partner	\$960.00	155.9	\$149,664.00
Craig R. Tractenberg - Partner	\$960.00	1.3	No Charge
Keith C. Owens - Partner	\$895.00	49.9	\$44,660.50
Dharvi Goyal- Associate	\$440.00	12.9	\$5,676.00
Dharvi Goyal - Associate	\$440.00	0.8	No Charge
Subtotal		220.8	\$200,000.50
Paraprofessional	HOURLY RATE	APPLICATION HOURS	TOTAL FEES
Patricia M. Chlum - Paralegal	\$400.00	8.5	\$3,400.00
Patricia M. Chlum - Paralegal	\$400.00	0.7	0
Sarah Pennebaker - Sr. KM Research Analyst	\$255.00	0.7	\$178.50
Brooke Coleman - KM Research Analyst	\$255.00	2.0	\$510.00
Subtotal		11.9	\$4,088.50

19
20 *Id* (Exhibit 2 - "Summary of Professionals"). The total fees
21 incurred by attorneys and by paraprofessionals in this
22 application is **\$204,089.00**. Broken up by task, Fox Rothschild
23 billed as follows:

24 ///

25 ///

26 ///

27 ///

28 ///

	Task Description	Hours	Total
1	B110 Case Administration	3.9	\$1,676.50
2	B130 Asset Disposition	5.7	\$5,459.00
3	B140 Stay Relief/Adequate Protection	0.9	\$864.00
4	B160 Fee/Employment Applications	11.8	\$7,770.00
	B185 Assumption/Rejection of Leases and Contracts	158.6	\$143,149.00
5	B190 Other Contested Matters	35.8	\$34,368.00
6	B320 Plan and Disclosure Statement	8.0	\$7,634.50
	B410 General Bankruptcy Advice/Opinions	8.0	\$3,520.00
		232.7	\$204,441.00

7 Pinnacle Doc. #433 (Exhibit 3 - Task/Description

8 Summary) (emphasis added). After application of the \$20,000.00
 9 retainer, the remaining fee award sought by this application is
 10 **\$184,089.00.**

11 There appears to be a discrepancy between Exhibits 2 and 3,
 12 with the Task/Description Summary listing total fees incurred
 13 that are \$352.00 higher than the fees listed on the Summary of
 14 Professionals. The court assumes that this is the result of hours
 15 billed which were not charged to the client, as several such
 16 entries are found in the billing records. Pinnacle Doc. #433
 17 (Exhibit 1 - Complete Billing Records).

18 Fox Rothschild also incurred **\$5,112.92** in expenses:

Expenses	Cost
Good Standing Certificate	\$25.00
Messenger Service/Federal Express	\$3,594.40
Document Retrieval	\$18.30
Reprographics - Color	\$17.00
Reprographics - B/W	\$1,091.00
Postage	\$271.05
Westlaw Research	\$96.17
TOTAL	\$5,112.92

25 Pinnacle Doc. #433 (Exhibit 4). The expenses are not broken down
 26 by date or associated task, but the court does not find \$5,112.92
 27 to be out of line for expenses incurred in a Chapter 11 as
 28 complicated as this one turned out to be.

1 By and large, the court finds most of these services and
2 expenses reasonable, actual, and necessary though the
3 professional hourly rate exceed the rates charged in this
4 district by attorneys with similar expertise. The exception to
5 that finding is the work related to the assumption-related
6 matters which were explicitly premised on a hypothetical reversal
7 of the court's ruling in the Assumption Memorandum and the order
8 accompanying it.

9 Of the 232.70 hours billed by Fox Rothschild in this case,
10 158.60 hours representing \$143,149.00 is specifically billed as
11 pertaining to assumption/rejection issues. Pinnacle Doc. #429.
12 These entries are grouped in the motion and exhibits under the
13 heading of "Task B18." Pinnacle Docs. #429, #433 (Exhibit 3).
14 Admittedly, the issues concerning assumption of the franchise
15 agreements have been the most complicated and time-consuming
16 aspect of this case. There are several franchise agreements
17 between the Three Debtors and PLK. Pinnacle Doc. #433. Assumption
18 of the Franchise Agreements has been strenuously opposed by the
19 franchisor throughout these proceedings. See *Docket generally*.

20 That opposition extends to the instant fee application, and
21 PLK argues that Applicant's fees should be substantially reduced
22 because Applicant's services were neither necessary nor
23 beneficial to the estate. Doc. #463. PLK argues that, out of a
24 total of \$204,089.00 in fees (minus the retainer) sought by
25 Applicant, \$150,783.50 (by PLK's estimate) relate to Debtor's
26 failed efforts to assume the Franchise Agreements between
27 Pinnacle/Tyco and PLK. *Id.* Those figures appear to include
28 everything that Fox Rothschild has billed pertaining to the

1 Franchise Agreements since the inception of the case, both those
2 grouped under Task B185 and those grouped under other billable
3 tasks, most prominently the "Task B190" hours billed for "Other
4 Contested Matters." Pinnacle Docs. #464, #433, #495.

5 As the court has already noted, it was not unreasonable for
6 Debtors and their counsel to believe that the *Motion to Assume*
7 might be both necessary and beneficial to the estate. Indeed, one
8 might argue that reorganization would be practically impossible
9 without assuming the Franchise Agreements and that bringing the
10 motions might possibly have had the effect of softening PLK's
11 hardball position. Accordingly, the court will not exclude all
12 the hours billed for Assumption/Rejection related matters as PLK
13 desires.

14 The hours billed *after* the issuance of the Assumption
15 Memorandum are another matter. At that point, in the court's
16 view, it became unreasonable for the Debtors to continue beating
17 the dead horse which is the § 365(c) hypothetical test. The Ninth
18 Circuit decided *Catapult* roughly a quarter-century ago and has
19 given no indication of a desire to revisit the issue. Thus, the
20 court finds that, to the extent that Fox Rothschild billed for
21 work performed on the Popeyes cases pertaining to the assumption
22 of the Franchise Agreements *after* the issuance of the Assumption
23 Memorandum on October 10, 2024, (mainly work on the Motion for
24 Reconsideration and the subsequent appeal), that work was neither
25 necessary nor beneficial to the bankruptcy estate, and those
26 billable hours will be excluded from any fee award.

27 The burden is on the applicant to demonstrate that the
28 services were reasonably likely to benefit the estate at the time

1 the services were rendered. *In re Mednet*, 251 B.R. 103, 108
2 (B.A.P. 9th Cir., 2000). A bankruptcy court must also examine
3 the circumstances and the manner in which services are performed
4 and the results achieved in order to arrive at a determination of
5 a reasonable fee allowance. *Id.*

6 At the hearings on these fee applications, both applicants
7 argued that applicants should not be "penalized" because their
8 client did not prevail on the Assumption Motion and the
9 Reconsideration Motion, but that argument misapprehends their
10 burden. The court is not reducing fees because applicants did
11 not prevail. The fees are being reduced because applicant cannot
12 show that it was reasonably likely their services would benefit
13 the estate after the Assumption Memorandum. If applicants'
14 arguments were correct, the court would not have allowed fees for
15 the original assumption motion at all.

16 At the time the post Assumption Memorandum services were
17 rendered, the Three Debtors and Fox Rothschild (as well as
18 Berger, the general counsel) knew some salient facts. The Ninth
19 Circuit is a "hypothetical test" jurisdiction. This court was
20 constrained to follow *Catapult*. The court did follow *Catapult*
21 and showed no indication that *Catapult's* holding was
22 inapplicable. Debtors' arguments about the primacy of the
23 California Franchise Relations Act and the alleged
24 inapplicability of the Lanham Act were not persuasive to the
25 court. Likewise, no persuasive authority criticizing or limiting
26 *Catapult* in the Ninth Circuit was presented to the court.

27 Thus, the services related to the motion to reconsider, and
28 the appeal were not beneficial or helpful to the administration

1 of the estates at the time they were performed. § 330 (a) (3) (C).
2 Accordingly, the Fox Rothschild application for fees will be
3 reduced.

4 After review of Fox Rothschild's billing records, the court
5 has identified the following billing entries as representing work
6 performed between October 11, 2024, and December 31, 2024, which
7 should be excluded or reduced.

8 1. **B185 Assumption/Rejection.** The total billed for B185
9 Tasks is \$143,149.00. This amount will be reduced by \$47,170.00.

10 2. **B190 Other Contested Matters.** The total billed for B190
11 Tasks is \$34,368.00. This amount will be reduced by \$1,152.00.

12 3. **B320 Plan and Disclosure Statement.** The total billed
13 for B320 Tasks is \$7,634.50, but some of these entries include
14 matters pertaining to the Motion to Reconsider. This amount will
15 be reduced by \$1,248.00.

16 4. The total fee reduction for all three Task Groups
17 listed above is **\$49,570.50**.

18 See Appendix A.

19 A total of **\$49,570.50** will be deducted from the requested
20 fee amount of **\$204,089.00**, leaving a total of **\$154,518.50** in
21 compensable fees. After application of the \$20,000.00 retainer,
22 the court will grant a fee award of **\$134,518.50** and expense
23 reimbursement in the amount of **\$5,112.92** on an interim basis for
24 a total interim award of **\$139,631.42**.

25 However, awarding fees and expenses to an attorney is not
26 the same as directing that the attorney actually be paid. Whether
27 the court will allow Fox Rothschild to be paid anything at this
28 time will be discussed below.

1 **C. THE BERGER/PINNACLE FEE APPLICATION.**

2 Berger requests interim compensation in the sum of
3 **\$59,294.27** for work done on behalf of Pinnacle Doc. #453. This
4 amount consists of **\$57,427.00** in fees and **\$1,867.27** in expenses
5 from **September 6, 2024, through February 24, 2025.** *Id.*

6 Damani, as principal for Pinnacle, executed a statement of
7 consent dated February 28, 2025, indicating that Debtor has read
8 the fee application and approves the same. Pinnacle Doc. #458.
9 The motion is accompanied by Berger's Declaration and Exhibits in
10 the form of billing and expense records, resumes of Berger and
11 those in his firm, and a copy of the order approving Berger's
12 employment. Pinnacle Docs. ##455-56, #458.

13 On March 11, 2025, Walter R. Dahl, ("Dahl" or "Trustee"),
14 the Subchapter V Trustee in this case, filed an Opposition to the
15 motion. Pinnacle Doc. #462.

16 The court approved Berger's employment by order dated June
17 6, 2024. Pinnacle Doc. #89. According to the moving papers,
18 Berger was paid a retainer of \$20,000.00 prepetition along with
19 \$1,738.00 for the Chapter 11 filing fee. Pinnacle Docs. #453,
20 #456. Berger incurred \$14,236.50 in prepetition fees, and that
21 amount plus the filing fee were earned by Berger and withdrawn
22 from Applicant's client trust account prior to the filing of the
23 case. *Id.* The unearned retainer of \$5,763.50 remained in Berger's
24 trust account. *Id.*

25 This is Berger's second fee application filed in the instant
26 case. Pinnacle Doc. #453. On October 31, 2024, the court entered
27 an order granting the First Interim Fee Application and awarding
28 \$68,453.00 in fees and \$1,110.21 in costs. Pinnacle Doc. #310.

1 After application of the retainer balance of \$5,763.50, Pinnacle
2 paid Berger the balance of \$64,799.71 awarded in the First Fee
3 Application. *Id.*

4 For this Second Application, Berger's firm provided **103.9**
5 billable hours (plus an additional 14.40 hours not billed) at the
6 following rates, totaling **\$57,427.00** in fees:

Professional	Rate	Hours Billed	Total Fees
Michael Jay Berger	\$645.00	51.10	\$32,959.50
Sofya Davtyan	\$595.00	9.90	\$5,890.50
Robert Poteete	\$475.00	33.90	\$16,102.50
Yathida Nipha	\$275.00	8.80	\$2,420.00
Karine Manvelian	\$275.00	0.20	\$55.00
Peter Garza	\$200.00	0.00	\$0.00
Total Hours & Fees	103.9		\$57,427.50

13
14 Pinnacle Doc. #453. Berger also incurred **\$1,867.27** in expenses,
15 primarily in the form of postage and photocopying. *Id.*

16 Dahl opposes this Application. Pinnacle Doc. #462. Trustee
17 first notes that, according to the operating reports filed
18 between March 2024 and January 2025, the Three Debtors were
19 collectively operating at a loss of \$70,500.00. *Id.* Trustee notes
20 that § 330(a) authorizes this court to award "reasonable
21 compensation for actual, necessary services rendered" by a
22 professional person such as Applicant. *Id.* Likewise, § 330(a)(4)
23 bars the court from allowing compensation for services that were
24 not reasonably likely to benefit the estate. *Id.*

25 According to the record, Berger received a total of
26 \$29,402.00 for services performed prepetition on behalf of the
27 Three Debtors, and Berger sought and was awarded \$129,960 for
28 services performed as part of his representation of the Three

1 Debtors from the petition date through September 5, 2024. *Id.*
2 Including the award sought in this Application and the awards
3 sought in the applications filed in the other two cases, Berger
4 "proposes to be paid compensation totaling \$243,473 for its
5 representation of the Three Debtors, none of whom have proposed
6 plans of reorganization which would be able to be confirmed." *Id.*
7 Trustee also urges disgorgement for some or all of the fees
8 previously allowed and paid to Berger, on the grounds that much
9 of that compensation was for services "not reasonably likely to
10 provide identifiable, tangible and material benefit to the
11 estate," including specifically:

12 a. Filing, and subsequently abandoning a motion for
13 substantive consolidation, and failing to thereafter file a
14 motion for joint administration, leading to needless triplication
15 of pleadings;

16 b. Failing to timely file plans of reorganization as
17 required by Bankruptcy Code § 1189(a), and seeking extensions
18 pursuant to Bankruptcy Code § 1189(b);

19 c. Filing numerous motions seeking to assume unexpired
20 leases of real property prior to obtaining confirmation of plans
21 of reorganization, thus requiring parties to oppose such motions
22 to prevent imposition of significant administrative expense
23 liability;

24 d. Allowing the outside deadline of Bankruptcy Code
25 § 365(d)(4)(B) to lapse, thus potentially preventing the estates
26 to obtain the economic benefits of assuming and assigning such
27 leases;

28 ///

1 e. Filing and prosecuting motions to assume the PLK
2 franchise agreements despite the long-standing determination by
3 the 9th Circuit that the "hypothetical" rather than the "actual"
4 test is applicable to Bankruptcy Code § 365(c)(1), and seeking
5 reconsideration of such motions; and,

6 f. Filing and prosecuting plans of reorganization which
7 cannot be confirmed due to legal constraints and lack of
8 feasibility.

9 *Id.*

10 On March 18, 2025, Berger filed a Reply to Dahl's
11 Opposition. Pinnacle Doc. #497.

12 Berger's services here included, without limitation: asset
13 disposition; business operations; case administration; claims
14 administration and objections; fee/employment applications;
15 financing; litigation; plan and disclosure statement; and relief
16 from stay proceedings. Doc. #456.

17 By and large, the court finds most of these services and
18 expenses reasonable, actual, and necessary. The exception to that
19 finding is the work related to the assumption-related matters and
20 to the March 7 Plans which were explicitly premised on a
21 hypothetical reversal of the court's ruling in the Assumption
22 Memorandum and the order accompanying it.

23 For the reasons outlined above, it was not unreasonable for
24 Debtors and their counsel to believe that the *Motion to Assume*
25 might be both necessary and beneficial to the estate.

26 Accordingly, the court will not exclude all the hours billed for
27 Assumption/Rejection related matters as Dahl urges.

28 ///

1 The hours billed *after* the issuance of the Assumption
2 Memorandum are another matter. As the court has noted, it became
3 unreasonable for the Debtors to continue on a course dependent on
4 assuming the Franchise Agreements after the court issued the
5 Assumption Memorandum. Thus, the court finds that, to the extent
6 that Berger billed Pinnacle for work performed on the Popeyes
7 cases pertaining to the assumption of the Franchise Agreements
8 *after* the issuance of the Assumption Memorandum on October 10,
9 2024, (mainly work on the Motion for Reconsideration and the
10 subsequent appeal), that work was neither necessary nor
11 beneficial to the bankruptcy estate, and those billable hours
12 will be excluded from any fee award.

13 That finding extends to work performed by Berger on
14 Pinnacle's March 7 Plan, which the court has already described as
15 an unconfirmable place-holder plan that still relied on the
16 faulty premise that assumption of the Franchise Agreements was
17 achievable.

18 None of the work described above and for which Berger billed
19 Pinnacle was either beneficial or helpful to the administration
20 of the estates at the time the work was performed. § 330
21 (a) (3) (C). Accordingly, the Berger/Pinnacle Application for fees
22 will be reduced.

23 After review of the billing records, the court has
24 identified the following billing entries as representing work
25 performed between **September 6, 2024, through February 24, 2025,**
26 which should be excluded or reduced.

27 ///

28 ///

1 1. **Business Operations.** The total billed for Business
2 Operations is \$17,926.50. This amount will be reduced by
3 \$3,208.00.

4 2. **Case Administration.** The total billed for Case
5 Administration is \$5,921.00. This amount will be reduced by
6 \$64.50.

7 3. **Financing.** The total billed for Financing is \$4,529.50.
8 This amount will be reduced by \$64.50.

9 4. **Litigation.** The total billed for Litigation is
10 \$2,413.50. This amount will be reduced by \$1,870.50.

11 5. **Plan and Disclosure Statement.** The total billed for
12 Plan and Disclosure Statement is \$15,985.00. This amount will be
13 reduced by \$2,188.00.

14 6. The total fee reduction for all four Task Groups listed
15 above is **\$ 7,395.50.**

16 See Appendix B.

17 A total of **\$7,395.00** will be deducted from the requested
18 amount of **\$57,427.00**, leaving a total of **\$50,032.00** in
19 compensable fees. There are no remaining retainer funds to apply
20 to the outstanding fees. The court will grant a fee award of
21 **\$50,032.00** and expense reimbursement in the amount of **\$1,867.27**
22 on an interim basis for a total interim award of **\$51,899.27**.

23 As with the other Applications, whether payment will be
24 authorized at this time will be discussed below.

25

26 D. **THE BERGER/TYCO APPLICATION**

27 Berger requests interim compensation in the sum of
28 **\$16,275.75** under 11 U.S.C. § 330 and §331 for work performed on

1 behalf of Tyco. Tyco Doc. #453. This amount consists of
2 **\$15,593.50** in fees and **\$682.25** in expenses from **September 6,**
3 **2024, through February 24, 2025.** *Id.*

4 Imran Damani, principal for DIP, executed a statement of
5 consent dated February 28, 2025, indicating that Debtor has read
6 the fee application and approves the same. Tyco Doc. #332. The
7 motion is accompanied by (1) the Declaration of Michael Jay
8 Berger, and (2) Exhibits in the form of billing and expense
9 records, resumes of Berger and his firm, and a copy of the order
10 approving Applicant's employment. Tyco Docs. ##329-30. On March
11 11, 2025, Walter R. Dahl, ("Dahl" or "Trustee"), the Subchapter V
12 Trustee in this case, filed a truncated Opposition to the motion
13 based on the same arguments presented in the Opposition to the
14 Berger/Pinnacle Application. Tyco Doc. #335.

15 The court approved Applicant's employment by order dated Jun
16 6, 2024. Tyco Doc. #89. According to the moving papers, Applicant
17 was paid a retainer of \$20,000.00 prepetition along with
18 \$1,738.00 for the Chapter 11 filing fee in the Tyco Case. Tyco
19 Docs. #453, #456. Applicant incurred \$14,236.50 in prepetition
20 fees, and that amount plus the filing fee were earned by
21 Applicant and withdrawn from Applicant's client trust account
22 prior to the filing of the case. *Id.* The unearned retainer of
23 \$5,763.50 remains in Applicant's trust account. *Id.*

24 This is Applicant's second fee application. Tyco Doc. #327.
25 On October 31, 2024, the court entered an order granting the
26 First Interim Fee Application and awarding \$20,491.00 in fees and
27 \$710.71 in costs. Tyco Doc. #310. After application of the
28 ///

1 retainer balance of \$16,179.00, Debtor paid Applicant the balance
2 of \$5,022.71 awarded in the First Fee Application. *Id.*

3 Applicant's firm provided **103.9** billable hours (plus an
4 additional 14.40 hours not billed) at the following rates,
5 totaling **\$15,493.50** in fees:

Professional	Rate	Hours Billed	Total Fees
Michael Jay Berger	\$645.00	10.40	\$6,708.00
Sofya Davtyan	\$595.00	2.90	\$1,725.50
Robert Poteete	\$475.00	12.00	\$5,300.00
Yathida Nipha	\$275.00	6.100	\$1,677.50
Karine Manvelian	\$275.00	0.30	\$82.50
Peter Garza	\$200.00	0.00	\$0.00
Total Hours & Fees		31.70	\$15,493.50

12
13 Tyco Doc. #330. Applicant also incurred **\$682.25** in expenses,
14 primarily in the form of postage and photocopying. *Id.* These
15 combined fees and expenses total **\$16,275.75**.

16 The Trustee opposes this Application for the same reasons
17 set forth in the Opposition to the Berger/Pinnacle Application.
18 Tyco Doc. #462.

19 The same analysis used by the court in calculating the fee
20 reduction for the Berger/Pinnacle Application applies here,
21 though Berger billed Tyco significantly less than Pinnacle.

22 Berger's services here included, without limitation: asset
23 analysis and recovery; business operations; case administration;
24 claims administration and objections; fee/employment
25 applications; financing; litigation; plan and disclosure
26 statements; and relief from stay proceedings. Tyco Doc. #330. The
27 court finds these services to be reasonable except for those
28 ///

1 matters pertaining to the motion for reconsideration and appeal
2 and the March 7 Plan.

3 After review of the billing records, the court has
4 identified the following billing entries as representing work
5 performed between **September 6, 2024, through February 24, 2025,**
6 which should be excluded or reduced.

7 1. **Business Operations.** The total billed to Tyco for
8 Business Operations is \$3,408.00. This amount will be reduced by
9 \$64.50.

10 2. **Plan and Disclosure Statement.** The total billed to Tyco
11 for Plan and Disclosure Statement is \$2,384.50. This amount will
12 be reduced by \$129.00.

13 3. The total fee reduction for both Task Groups listed
14 above is **\$193.50.**

15 See Appendix C.

16 A total of **\$193.50** will be deducted from the requested
17 amount of **\$15,493.50**, leaving a total of **\$15,300.00** in
18 compensable fees. There are no remaining retainer funds to apply
19 to the outstanding fees. The court will grant a fee award of
20 **\$15,300.00** and expense reimbursement in the amount of **\$682.25** on
21 an interim basis for a total interim award of **\$15,982.25**

22 As with the other Applications, whether payment will be
23 authorized at this time will be discussed below.

24

25 **E. THE BERGER/QSR APPLICATION**

26 Berger requests interim compensation in the sum of
27 **\$11,350.16** under 11 U.S.C. § 330 and §331 for work performed on
28 behalf of QSR. QSR Doc. #294. This amount consists of **\$10,730.00**

1 in fees and **\$620.16** in expenses from **September 6, 2024, through**
2 **February 24, 2025.** *Id.*

3 Imran Damani, principal for DIP, executed a statement of
4 consent dated February 28, 2025, indicating that Debtor has read
5 the fee application and approves the same. QSR Doc. #301. The
6 motion is accompanied by the Declaration of Michael Jay Berger
7 and Exhibits in the form of billing and expense records, resumes
8 of Berger and those in his firm, and a copy of the order
9 approving Applicant's employment. QSR Docs. ##296-97.

10 On March 11, 2025, Walter R. Dahl, ("Dahl" or "Trustee"),
11 the Subchapter V Trustee in this case, filed a truncated
12 Opposition to the motion based on the same arguments presented in
13 the Opposition to the Berger/Pinnacle Application. QSR Doc. #304.

14 As a threshold matter, the court notes that ordinarily this
15 Application would be denied on procedural grounds for failure to
16 comply with the Local Rules. LBR 9004-2(a)(6), (b)(5), (b)(6),
17 (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket
18 Control Numbers ("DCN"). These rules require a DCN to be in the
19 caption page on all documents filed in every matter with the
20 court and each new motion requires a new DCN. The DCN shall
21 consist of not more than three letters, which may be the initials
22 of the attorney for the moving party (e.g., first, middle, and
23 last name) or the first three initials of the law firm for the
24 moving party, and the number that is one number higher than the
25 number of motions previously filed by said attorney or law firm
26 in connection with that specific bankruptcy case. Each separate
27 matter must have a unique DCN linking it to all other related
28 pleadings.

1 On February 3, 2025, the debtor corporation in this Chapter
2 11 Subchapter V case filed its Chapter 11 Small Business Plan
3 using DCN MJB-12. QSR Doc. #272. On February 25, 2025, this
4 Motion for Compensation was filed, also using DCN MJB-12. QSR
5 Doc. #294. Therefore, it does not comply with the local rules.
6 Each separate matter filed with the court must have a different
7 DCN.

8 Nevertheless, because the Three Cases are so intertwined and
9 the fee applications filed by Berger in the other two cases are
10 not procedurally deficient, the court will overlook the
11 procedural error so that all three applications can be dealt with
12 in a single hearing.

13 The court approved Berger's employment by order dated Jun 6,
14 2024. QSR Doc. #96. According to the moving papers, Berger was
15 paid a retainer of \$20,000.00 prepetition along with \$1,738.00
16 for the Chapter 11 filing fee. QSR Docs. #272, #297. Berger
17 incurred \$11,344 in prepetition fees, and that amount plus the
18 filing fee were earned by Berger and withdrawn from Berger's
19 client trust account prior to the filing of the case. *Id.* The
20 unearned retainer of \$8,626.00 remained in Berger's trust
21 account. *Id.*

22 This is Berger's second fee application filed in the instant
23 case. QSR Doc. #294. On October 31, 2024, the court entered an
24 order granting the First Interim Fee Application and awarding
25 \$40,016.00 in fees and \$4,114.29 in costs. QSR Doc. #230. After
26 application of the retainer balance of \$8,656.00, Debtor paid
27 Berger the balance of \$35,474.29 awarded in the First Fee
28 Application. *Id.*

1 For this Second Application, Berger's firm provided **20.00**
2 billable hours (plus an additional 7.40 hours not billed) at the
3 following rates, totaling **\$10,730.00** in fees:

Professional	Rate	Hours Billed	Total Fees
Michael Jay Berger	\$645.00	8.60	\$5,547.50
Sofya Davtyan	\$595.00	4.10	\$2,439.50
Robert Poteete	\$475.00	4.40	\$2,090.00
Yathida Nipha	\$275.00	2.90	\$653.50
Karine Manvelian	\$275.00	0.00	\$0.00
Peter Garza	\$200.00	0.00	\$0.00
Total Hours & Fees	20.00		\$10,730.50

10
11 QSR Doc. #453. Berger also incurred **\$620.16** in expenses,
12 primarily in the form of postage and photocopying. *Id.* These
13 combined fees and expenses total **\$11,350.16**.

14 The Trustee opposes this Application for the same reasons
15 set forth in the Opposition to the Berger/Pinnacle Application.
16 Tyco Doc. #462.

17 In principle, the same analysis used by the court in
18 calculating the fee reduction for the Berger/Pinnacle Application
19 should apply here. However, after review of the billing records,
20 the court has not identified any billing entries for QSR which
21 should be excluded or reduced. This is because neither the motion
22 for reconsideration/appeal nor the new plan generated any work
23 performed on behalf of QSR for which that Debtor was billed.
24 Accordingly, the fees requested in this Application will not be
25 reduced.

26 Accordingly, the court will grant a fee award of **\$10,730.50**
27 and expense reimbursement in the amount of **\$620.16** on an interim
28 basis for a total interim award of **\$11,350.66**.

1 As with the other Applications, whether payment will be
2 authorized at this time will be discussed below.
3

4 **F. PAYMENT IS NOT AUTHORIZED AT THIS TIME.**

5 Notwithstanding the preceding analysis, neither Fox
6 Rothschild nor Berger are entitled to payment of the fees and
7 expense reimbursement awarded at this time. Contemporaneously
8 with the issuance of this Memorandum Opinion, the court issued an
9 order that all three of the Debtor Cases be converted from
10 Chapter 11 Subchapter V to Chapter 7 for liquidation. Such
11 conversion affects fees and expenses awarded on an interim basis
12 by making them Chapter 11 administrative claims subject to
13 priority and subordinate to any administrative claims arising
14 within the Chapter 7 case.

15 Section 726(b) provides that payments specified in
16 certain paragraphs of section 507 (including
17 administrative claims) "shall be made pro rata" among
18 claims of a kind specified in a particular paragraph,
19 except that following conversion to Chapter 7, Chapter
20 7 administrative claimants shall have priority over
21 other administrative claimants. See 11 U.S.C.
22 § 726(b) (emphasis added). To achieve pro rata
23 distribution among a class of claimants, a court can
order those claimants who have received payment during
the course of a case to disgorge whatever amount is
necessary to equalize the percentage of payments among
all creditors in that class. *Shaia v. Durrette, Irvin,*
Lemons & Bradshaw, P.C. (In re Metropolitan Elec.
Supply Corp.), 185 B.R. 505, 509-10 (Bankr. E.D. Va.
1995) (collecting cases at footnote 4).

24 Before a court applies section 726(b), property of the
25 debtor must be administered and reduced to cash. To the
26 extent a party has a valid lien on property that was
27 used to produce the cash for the estate, that lien is
paid first from the proceeds of the liquidation of that
property. *United States v. Fed. Deposit Ins. Corp.*, 899
F. Supp. 50, 54 (D. R.I. 1995) ("Federal bankruptcy law
provides that if the property managed by the receiver
[trustee] is sold to pay debts, the proceeds of the
sale are used first to satisfy valid liens on the
property, next for any exemptions the debtor may claim,

1 and finally to pay claims enumerated in [section]
2 726."); *Waldschmidt v. Comm'r of I.R.S.* (*In re*
3 *Lambdin*), 33 B.R. 11, 13 (Bankr. M.D. Tenn. 1983).
4 The remaining funds from the liquidation of that
5 property are distributed to the debtor to the extent he
6 or she has claimed an exemption in it. *Lambdin*, 33 B.R.
7 at 13. Only the excess remaining after satisfaction of
8 the lien and the exemption is available to pay claims
9 against the estate in accordance with section 726. *Id.*;
10 see also *In re Am. Resources Management Corp.*, 51 B.R.
11 713, 719 (Bankr. D. Utah 1985) ("As a general rule,
12 expenses of administration must be satisfied from
13 assets of the estate not subject to liens. . . . Only
14 surplus proceeds are available for distribution to
15 creditors of the estate and administrative claimants.
16 Therefore, absent equity in the collateral,
17 administrative claimants cannot look to encumbered
18 property to provide a source of payment for their
19 claims.") (emphasis added).

20 *Rus, Miliband & Smith, APC v. Yoo (In re Dick Cepek,*
21 *Inc.)* ("Cepek"), 339 B.R. 730, 736-37 (B.A.P. 9th Cir. 2006).

22 Cepek was primarily concerned with the question of whether an
23 attorney who represents a Chapter 11 debtor on retainer retains a
24 security interest in the retainer after conversion to Chapter 7,
25 an issue which may yet become relevant as the cases progress
through Chapter 7 but it not yet ripe for consideration.

26 What is relevant to the applications before the court is the
27 fact that any fees and expenses awarded to Fox Rothschild and/or
Berger on an interim basis, either through the instant
applications or through prior awards, are administrative
expenses. 11 U.S.C. § 503(b)(2). And after conversion from
Chapter 11 to Chapter 7, any interim fee/expense awards are
subordinate in priority to any future Chapter 7 administrative
expenses, and that all pre-conversion Chapter 11 expenses will be
subject to pro rata distribution if the Chapter 7 estate cannot
pay them all in full. 11 U.S.C. § 726(b).

28 ///

1 Thus, while the court is prepared to grant the Fee
2 Applications on an interim basis (subject to the deductions and
3 exclusions outlined above), the court will not order that any of
4 the Three Debtors or their estates pay those fees and expenses
5 until it is made clear after notice and a hearing that there are
6 sufficient post-liquidation funds to pay the fees in full. If
7 there are not sufficient funds to pay the attorney fees in full,
8 then the fee/expense awards to Fox Rothschild and Berger will be
9 paid on a pro rata basis pursuant to a future order of the court.
10 The court may elect to revisit the issue of disgorgement at that
11 time as required by law.

12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38

CONCLUSION

15 Based on the foregoing analysis, it is the ruling of this
16 court that Fox Rothschild and Berger shall be awarded fees and
17 expenses on an interim basis as follows:

18 1. The Fee Application of Fox Rothschild [Pinnacle Doc.
19 429; Pinnacle DCN KCO-06] is GRANTED as modified. Fox Rothschild
20 shall be awarded attorneys' fees in the amount of **\$134,518.50** and
21 expense reimbursement in the amount of **\$5,112.92** on an interim
22 basis for a total interim award of **\$139,631.42**.

23 2. The Berger/Pinnacle Fee Application [Pinnacle Doc.
24 #453; Pinnacle DCN MJB-16] is GRANTED as modified. Berger shall
25 be awarded attorneys' fees in the amount **\$50,032.00** and expense
26 reimbursement in the amount of **\$1,867.27** on an interim basis for
27 a total interim award of **\$51,899.27**.

28 |||

1 3. The Berger/Tyco Fee Application [Tyco Doc. #453; Tyco
2 DCN MJB-13] is GRANTED as modified. Berger shall be awarded
3 attorneys' fees in the amount of **\$15,300.00** and expense
4 reimbursement in the amount of **\$682.25** on an interim basis for a
5 total interim award of **\$15,982.25**.

6 4. The Berger/QSR Fee Application [QSR Doc. #294; QSR DCN
7 MJB-12] is GRANTED as modified. Berger shall be awarded
8 attorneys' fees in the amount of **\$10,730.50** and expense
9 reimbursement in the amount of **\$620.16** on an interim basis for a
10 total interim award of **\$11,350.66**.

11 5. No payments shall be made on any of these interim
12 awards until further order of the court.

13 6. The court reserves judgment on the necessity of any
14 professional to disgorge some or all of any awarded and paid
15 fees.

16 Fox Rothschild and Berger to prepare orders consistent with
17 this opinion.

18
19 Dated: Apr 04, 2025

By the Court


René Lastreto II, Judge
United States Bankruptcy Court

1 APPENDIX A
23 FOX ROTHSCHILD FEE REDUCTIONS AND EXCLUSIONS
45 B185 Assumption/Rejection.
67 Total Billed for B185 Tasks = \$143,149.00
89 Total Reduction = \$47,170.50
10

Date	Name	Hours	Billed	Reduction
10/14/24	Owens	0.7	\$626.50	\$626.50
	Owens	1.0	\$895.00	\$895.00
	Tractenberg	0.6	\$576.00	\$576.00
	Tractenberg	0.6	\$576.00	\$576.00
10/15/24	Owens	0.3	\$268.50	\$268.50
	Tractenberg	0.5	\$480.00	\$480.00
	Tractenberg	0.7	\$672.00	\$672.00
10/16/24	Owens	0.2	\$179.00	\$179.00
	Tractenberg	0.3	\$288.00	\$288.00
10/17/24	Owens	0.4	\$358.00	\$358.00
	Trachtenberg	0.4	\$384.00	\$384.00
	Tractenberg	0.6	\$576.00	\$576.00
10/18/24	Owens	0.2	\$179.00	\$179.00
	Tractenberg	1.6	\$1,536.00	\$1,536.00
10/20/24	Tractenberg	0.2	\$192.00	\$192.00
10/21/24	Tractenberg	1.8	\$1,728.00	\$1,728.00
10/22/24	Owens	0.8	\$716.00	\$716.00
	Owens	0.9	\$805.50	\$805.50
	Tractenberg	5.1	\$4,896.00	\$4,896.00
10/23/24	Tractenberg	2.7	\$2,592.00	\$2,592.00
10/24/24	Owens	2.4	\$2,148.00	\$2,148.00
	Owens	0.4	\$358.00	\$358.00
	Owens	0.9	\$805.50	\$805.50
	Owens	0.5	\$447.50	\$447.50
	Tractenberg	0.4	\$384.00	\$384.00
	Tractenberg	0.1	\$96.00	\$96.00
	Tractenberg	3.2	\$3,072.00	\$3,072.00
11/26/24	Owens	0.2	\$179.00	\$179.00
12/4/24	Tractenberg	0.7	\$672.00	\$672.00
12/5/24	Goyal	1.1	\$484.00	\$484.00
	Goyal	0.9	\$396.00	\$396.00
	Goyal	0.5	\$220.00	\$220.00
	Owens	0.3	\$268.50	\$268.50
	Tractenberg	0.9	\$864.00	\$864.00
12/6/24	Goyal	1.5	\$660.00	\$660.00
	Goyal	0.5	\$220.00	\$220.00
	Tractenberg	0.7	\$672.00	\$672.00
12/7/24	Goyal	1.2	\$528.00	\$528.00
	Tractenberg	0.7	\$672.00	\$672.00
12/8/24	Tractenberg	1.2	\$1,152.00	\$1,152.00
12/9/24	Owens	0.4	\$358.00	\$358.00
	Tractenberg	5.2	\$4,992.00	\$4,992.00

1	12/10/24	Owens	0.6	\$537.00	\$537.00
2		Owens	1.5	\$1,342.00	\$1,342.00
3		Tractenberg	1.1	\$1,056.00	\$1,056.00
4	12/13/24	Tractenberg	0.4	\$384.00	\$384.00
5	12/16/24	Tractenberg	0.5	\$480.00	\$480.00
6		Tractenberg	0.1	\$96.00	\$96.00
7	12/17/24	Tractenberg	0.7	\$672.00	\$672.00
8		Tractenberg	0.6	\$576.00	\$576.00
9	12/19/24	Owens	0.2	\$179.00	\$179.00
10		Owens	0.2	\$179.00	\$179.00
11		Owens	0.4	\$358.00	\$358.00
12	12/20/24	Tractenberg	0.4	\$384.00	\$384.00
13		Tractenberg	0.7	\$672.00	\$672.00
14	12/26/24	Owens	0.1	\$89.50	\$89.50
15	12/27/24	Owens	0.3	\$268.00	\$268.00
16		Owens	0.1	\$89.50	\$89.50
17	12/30/24	Owens	0.7	\$626.00	\$626.00
18	12/31/24	Owens	0.2	\$179.00	\$179.00
19		Owens	0.5	\$447.50	\$447.50
20		Tractenberg	0.4	\$384.00	\$384.00
21	TOTAL REDUCTION				\$47,170.50

B190 Other Contested Matters

Total Billed for B190 Tasks = \$34,368.00

Total Reduction = \$1,152.00

Date	Name	Hours	Billed	Reduction
12/29/24	Tractenberg	0.8	\$768.00	\$768.00
12/31/24	Tractenberg	0.4	\$384.00	\$384.00
TOTAL REDUCTION				\$1,152.00

B320 Plan and Disclosure Statement.

Includes some matters pertaining to Motion to Reconsider

Total Billed for B320 Tasks = \$7,634.50

Total Reduction = \$1,248.00

Date	Name	Hours	Billed	Reduction
11/15/24	Tractenberg	0.1	\$96.00	\$96.00
12/17/24	Tractenberg	0.5	\$480.00	\$480.0
12/30/24	Tractenberg	0.7	\$672.00	\$672.00
TOTAL REDUCTION				\$1,248.00

APPENDIX B

BERGER/PINNACLE FEE REDUCTIONS AND EXCLUSIONS

Business Operations

Total Billed for Business Operations = \$17,926.50

Total Reduction = \$3,208.00

Date	Name	Hours	Billed	Reduction
10/11/24	MJB	0.70	\$451.50	\$451.50
	MJB	0.20	\$129.00	\$129.00
10/13/24	MJB	0.10	\$64.50	\$64.50
10/14/24	SD	0.10	\$64.50	\$64.50
	MJB	0.70	\$451.50	\$451.50
10/19/24	MJB	0.10	\$64.50	\$64.50
10/24/24	MJB	0.20	\$129.00	\$129.00
	MJB	0.20	\$129.00	\$129.00
12/20/24	MJB	0.60	\$387.00	\$387.00
	MJB	0.20	\$129.00	\$129.00
	MJB	0.60	\$387.00	\$387.00
12/27/24	MJB	0.40	\$258.00	\$258.00
12/30/24	MJB	0.20	\$129.00	\$129.00
1/10/25	MJB	0.30	\$193.50	\$129.00
1/20/25	MJB	1.70	\$1,096.50	\$129.00
1/20/25	MJB	0.10	\$64.50	\$64.50
1/21/25	RP	0.10	\$47.50	\$47.50
1/21/25	MJB	0.50	\$322.50	\$64.50
TOTAL REDUCTION				\$3208.00

Case Administration

Total Billed for Case Administration = \$5,921.00

Total Reduction = \$64.50

Date	Name	Hours	Billed	Reduction
2/21/25	MJB	0.10	\$64.50	\$64.50
TOTAL REDUCTION				\$64.50

Financing

Total Billed for Financing = \$4,529.50

Total Reduction = \$64.50

Date	Name	Hours	Billed	Reduction
12/27/24	MJB	0.10	\$64.50	\$64.50
TOTAL REDUCTION				\$64.50

Litigation

Total Billed for Litigation = \$2,413.50

Total Reduction = \$1,870.50

Date	Name	Hours	Billed	Reduction
10/14/24	MJB	0.10	\$64.50	\$64.50
12/30/24	MJB	0.60	\$387.00	\$387.00
1/9/25	MJB	0.10	\$64.50	\$64.50
1/10/25	MJB	0.10	\$64.50	\$64.50
2/3/25	MJB	0.10	\$64.50	\$64.50
2/4/25	MJB	0.10	\$64.50	\$64.50
2/7/25	MJB	0.10	\$64.50	\$64.50
	MJB	0.10	\$64.50	\$64.50
	MJB	1.00	\$645.00	\$645.00
2/17/25	MJB	0.30	\$193.50	\$193.50
2/18/25	MJB	0.10	\$64.50	\$64.50
2/19/25	MJB	0.10	\$64.50	\$64.50
	MJB	0.10	\$64.50	\$64.50
TOTAL REDUCTION				\$1,870.50

Plan and Disclosure Statement

Total Billed for Plan and Disclosure Statement = \$15,985.00

Total Reduction = \$2,188.00

Date	Name	Hours	Billed	Reduction
10/12/24	MJB	0.30	\$193.50	\$193.50
10/14/24	MJB	0.50	\$387.00	\$387.00
12/16/24	MJB	0.50	\$323.50	\$129.00
2/5/25	MJB	0.10	\$64.50	\$64.50
2/6/24	MJB	0.50	\$322.50	\$322.50
	MJB	0.10	\$64.50	\$64.50
	MJB	0.10	\$64.50	\$64.50
	MJB	0.10	\$64.50	\$64.50
	MJB	0.40	\$258.00	\$258.00
2/7/24	MJB	0.20	\$129.00	\$129.00
2/10/24	MJB	0.30	\$193.50	\$193.50
2/17/24	SD	0.10	\$59.50	\$59.50
	MJB	0.10	\$64.50	\$64.50
	MJB	0.20	\$129.00	\$129.00
2/24	MJB	0.10	\$64.50	\$64.50
TOTAL REDUCTION				\$2,188.00

APPENDIX C**BERGER/TYCO FEE REDUCTIONS AND EXCLUSIONS****Business Operations**

Total Billed for Business Operations = \$3,408.00

Total Reduction = \$64.50

Date	Name	Hours	Billed	Reduction
10/24/24	MJB	0.10	\$64.50	\$64.50
TOTAL REDUCTION				\$64.50

Plan and Disclosure Statement

Total Billed for Plan and Disclosure Statement = \$2,384.50

Total Reduction = \$129.00

Date	Name	Hours	Billed	Reduction
2/8/25	MJB	0.10	\$64.50	\$64.50
2/21/25	MJB	0.10	\$64.50	\$64.50
TOTAL REDUCTION				\$129.00

1 **Instructions to Clerk of Court**
2 **Service List - Not Part of Order/Judgment**

3 The Clerk of Court is instructed to send the Order/Judgment
4 or other court generated document transmitted herewith to the
5 parties below. The Clerk of Court will send the Order via the
6 BNC or, if checked , via the U.S. mail.

7 Pinnacle Foods of California LLC
8 Tyco Group, LLC
9 California QSR Management, Inc.
10 764 P. St., Ste. 105
11 Fresno, CA 93721

12 Walter R. Dahl
13 8757 Auburn Folsom Rd #2820
14 Granite Bay, CA 95746-2820

15 Office of the U.S. Trustee
16 United States Courthouse
17 2500 Tulare Street, Room 1401
18 Fresno, CA 93721

19 Michael Jay Berger
20 Law Office of Michael J. Berger
21 9454 Wilshire Blvd 6th Fl
22 Beverly Hills, CA 90212-2929

23 Hagop T. Bedoyan
24 McCormick Barstow
25 7647 N. Fresno Street
26 Fresno, CA 93720

27 Glenn Moses
28 Venable, LLP
29 801 Brickell Avenue, Suite 1500
30 Miami, FL 33131

31 Craig R. Tractenberg
32 Fox Rothschild LLP
33 2000 Market St 20 Floor
34 Philadelphia PA 19103